

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

WHAT YOU NEED TO KNOW WHEN FILING AN EMERGENCY MOTION

What is an emergency?

- Any relief sought for which, through circumstances beyond the control of the applicant, there is not enough time to give the notice required by the Bankruptcy Code and Rules.

What must be filed?

- Absent dire circumstances, the applicant must file papers for the Court's consideration, stating the nature of relief, the statutory basis therefore and the facts creating the urgency.
- "Emergency Matter" or the word "Emergency" should be in the caption of the papers filed to alert the Clerk's Office of the urgent nature of the relief sought.

Where must it be filed?

- The applicant must either e-file or fax papers to the Clerk's Office.

Who must be called?

- The applicant must call the Clerk's Office to alert a staff member that an emergency motion has been filed.

What kind of hearing will be held?

- If the Court determines that an emergency hearing is necessary, it prefers that counsel appear in person for such hearing, but will permit participation by telephone if the nature of the emergency and time constraints warrant such a format. The applicant should request an evidentiary hearing if testimony is necessary for the relief sought. Otherwise, the hearing will be limited to legal arguments by counsel.

Who gets notice of the hearing?

- The applicant must notify all affected parties, as well as the case trustee and the U.S. Trustee. In very time sensitive instances, the Court may approve notification via telephone.
- Absent dire circumstances, the applicant is required to file a notice of hearing and certificate of service indicating the parties notified and the method of notification.
- In dire circumstances, the Court will proceed without the filing or service of papers. However, as a general rule, the applicant must fax or e-file the papers prior to the hearing.

Who sets the hearing (and arranges for a court reporter)?

- The applicant must coordinate the hearing time, date and location with the courtroom deputy.
- The applicant must arrange for the court reporter in the event that the hearing is not scheduled for a motion calendar day. See, e.g., Vt. LBR 4001-2(b).
- In the case of a telephonic hearing or appearance via video conference, the applicant arranges for the conference call or video conference.